

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

GARNETT DuBOSE,

Plaintiff,

CASE NO: 07-13128

vs.

DISTRICT JUDGE DAVID M. LAWSON
MAGISTRATE JUDGE CHARLES E. BINDER

WARREN EVANS,

Defendant.

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
ON PLAINTIFF'S MOTION FOR JUDGMENT**

I. RECOMMENDATION

For the reasons set forth below, **IT IS RECOMMENDED** that Plaintiff's motion be **DENIED**.

II. REPORT

The *pro se* Plaintiff filed the instant motion on December 11, 2007. (Dkt. 19). In his argument, Plaintiff states that the time for the Defendant to answer or otherwise respond to the Complaint has passed. Since the Plaintiff has not received an answer within the time allowed, he is asking for judgment on the pleadings. A review of the docket shows that the Defendant filed a Motion to Dismiss on December 3, 2007. That motion was timely filed, and is an appropriate response to the complaint under Rule 12 of the Federal Rules of Civil Procedure. Thus, there is no basis for the relief sought in Plaintiff's motion.

III. REVIEW

The parties to this action may object to and seek review of this Report and Recommendation within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1). Failure to file specific objections constitutes a waiver of any further right of appeal. See *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985); *Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The parties are advised that making some objections, but failing to raise others, will not preserve all the objections a party may have to this Report and Recommendation. See *Willis v. Sec'y of Health & Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

s/ Charles E. Binder

CHARLES E. BINDER
United States Magistrate Judge

Dated: December 17, 2007

CERTIFICATION

I hereby certify that this Report and Recommendation was electronically filed this date, electronically served on Aaron Thomas, served on Garnett DuBose by first class mail, and served on District Judge Borman in the traditional manner.

Date: December 17, 2007

By s/Jean L. Broucek
Case Manager to Magistrate Judge Binder